

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAFIQ A. SABIR

v.

UNITED STATES OF AMERICA

12 civ. 8937 (LAP)

DEFENDANT DR. RAFIQ SABIR ASKS THE COURT LEAVE TO AMEND
28 USCS §2255 PETITION, GROUND SEVEN, AS FOLLOWS:


Defendant Dr. Rafiq Sabir was denied the effective assistance of counsel in violation of the Sixth Amendment to the United States Constitution. Defense counsel failed to object to the illegal sentence imposed, and failed to argue that on appeal.

a) Supporting Facts: Dr. Sabir was convicted on two counts, each having a statutory maximum of fifteen years. United States Sentencing Guidelines state that a separate sentence must be pronounced for each count. Instead, the Court illegally pronounced a general sentence of 300 months, far exceeding the statutory maximum, without explanation at sentencing and without filing any statement of reasons. According to law, when a defendant is sentenced on more than one count in the same case the sentences are presumed to be concurrent, unless specifically stated by the court to be consecutive; ergo, this is presumably 300 month concurrent sentences, as stated by defense counsel in his appellate brief. However, defense counsel did not object to this plainly illegal sentence at sentencing and did not argue it on appeal.

b) This issue was not argued on appeal; c) nor was it argued in any post-conviction action.

d) The United States Supreme Court ruled that a challenge to an illegal sentence can never be forfeited or time-barred.

I declare under penalty of perjury that the foregoing is true and correct, and that this Amendment to the Motion under 28 USCS 2255 was placed in the prison mail on 26 March 2016

Executed on 25 March 2016 



Signature of Movant

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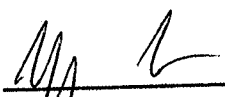
AFFIRMATION OF SERVICE

I Rafiq A. Sabir, declare under penalty of perjury that I have served a copy of the attached LEAVE TO AMEND, pursuant to Rule 7, upon the United States Attorney, whose address is:

United States Courthouse Annex
One Saint Andrews Plaza
New York, New York 10007-1701

by First Class Mail.

Dated: 25 March 2016



Rafiq A. Sabir

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